

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 7
FINAL READING

Introduced by Executive Board: Coordsen, 32, Chairperson

Read first time January 4, 2001

Committee: Placed on General File

A BILL

1 FOR AN ACT relating to the Uniform Residential Landlord and Tenant
2 Act; to amend sections 76-1402 to 76-1409, 76-1411,
3 76-1414, 76-1415, 76-1417, 76-1419, 76-1420, 76-1425,
4 76-1428, 76-1431, 76-1436, and 76-1448, Reissue Revised
5 Statutes of Nebraska, and section 76-1416, Revised
6 Statutes Supplement, 2000; to change internal references;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-1402, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-1402. (1) ~~Sections 25-21,219 and 76-1401 to 76-1449~~
4 The Uniform Residential Landlord and Tenant Act shall be liberally
5 construed and applied to promote ~~their~~ its underlying purposes and
6 policies.

7 (2) Underlying purposes and policies of ~~sections~~
8 ~~25-21,219 and 76-1401 to 76-1449~~ the act are:

9 (a) To simplify, clarify, modernize, and revise the law
10 governing the rental of dwelling units and the rights and
11 obligations of landlord and tenant;

12 (b) To encourage landlord and tenant to maintain and
13 improve the quality of housing; and

14 (c) To make uniform the law among those states which
15 enact it.

16 Sec. 2. Section 76-1403, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 76-1403. Unless displaced by the provisions of ~~sections~~
19 ~~25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord
20 and Tenant Act, the principles of law and equity, including the law
21 relating to capacity to contract, mutuality of obligations,
22 principal and agent, real property, public health, safety and fire
23 prevention, estoppel, fraud, misrepresentation, duress, coercion,
24 mistake, bankruptcy, or other validating or invalidating cause,
25 supplement ~~its~~ the act's provisions.

26 Sec. 3. Section 76-1404, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 76-1404. ~~Sections 25-21,219 and 76-1401 to 76-1449~~ The

1 Uniform Residential Landlord and Tenant Act being a general act
2 intended as a unified coverage of its subject matter, no part of it
3 is to be construed as impliedly repealed by subsequent legislation
4 if that construction can reasonably be avoided.

5 Sec. 4. Section 76-1405, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 76-1405. (1) The remedies provided by ~~sections 25-21,219~~
8 ~~and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant
9 Act shall be so administered that the aggrieved party may recover
10 appropriate damages. The aggrieved party has a duty to mitigate
11 damages.

12 (2) Any right or obligation declared by ~~sections~~
13 ~~25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord
14 and Tenant Act is enforceable by action unless the provision
15 declaring it specifies a different and limited effect.

16 Sec. 5. Section 76-1406, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 76-1406. A claim or right arising under ~~sections~~
19 ~~25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord
20 and Tenant Act or on a rental agreement may be settled by
21 agreement.

22 Sec. 6. Section 76-1407, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 76-1407. ~~Sections 25-21,219 and 76-1401 to 76-1449 apply~~
25 ~~to, regulate, and determine~~ The Uniform Residential Landlord and
26 Tenant Act applies to, regulates, and determines rights,
27 obligations, and remedies under a rental agreement, wherever made,
28 for a dwelling unit located within this state.

1 Sec. 7. Section 76-1408, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-1408. Unless created to avoid the application of
4 ~~sections 25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential
5 Landlord and Tenant Act, the following arrangements are not
6 governed by ~~sections 25-21,219 and 76-1401 to 76-1449~~ the act:

7 (1) Residence at an institution, public or private, if
8 incidental to detention or the provision of medical, geriatric,
9 educational, counseling, religious, or similar service.

10 (2) Occupancy under a contract of sale of a dwelling unit
11 or the property of which it is a part, if the occupant is the
12 purchaser or a person who succeeds to his or her interest.

13 (3) Occupancy by a member of a fraternal or social
14 organization in the portion of a structure operated for the benefit
15 of the organization.

16 (4) Transient occupancy in a hotel or motel.

17 (5) Occupancy by an employee of a landlord whose right to
18 occupancy is conditional upon employment in and about the premises.

19 (6) Occupancy by an owner of a condominium unit or a
20 holder of a proprietary lease in a cooperative.

21 (7) Occupancy under a rental agreement covering premises
22 used by the occupant primarily for agricultural purposes.

23 (8) A lease of improved or unimproved residential land
24 for a term of five years or more.

25 Sec. 8. Section 76-1409, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 76-1409. The district or county court of this state may
28 exercise jurisdiction over any landlord or tenant with respect to

1 any conduct in this state governed by ~~sections 25-21,219 and~~
2 ~~76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant Act
3 or with respect to any claim arising from a transaction subject to
4 ~~sections 25-21,219 and 76-1401 to 76-1449~~ the act for a dwelling
5 unit located within its jurisdictional boundaries.

6 Sec. 9. Section 76-1411, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 76-1411. Every duty under ~~sections 25-21,219 and 76-1401~~
9 ~~to 76-1449~~ the Uniform Residential Landlord and Tenant Act and
10 every act which must be performed as a condition precedent to the
11 exercise of a right or remedy under ~~sections 25-21,219 and 76-1401~~
12 ~~to 76-1449~~ the act imposes an obligation of good faith in its
13 performance or enforcement.

14 Sec. 10. Section 76-1414, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 76-1414. (1) The landlord and tenant may include in a
17 rental agreement terms and conditions not prohibited by ~~sections~~
18 ~~25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord
19 and Tenant Act or other rule of law including rent, term of the
20 agreement, and other provisions governing the rights and
21 obligations of the parties.

22 (2) In absence of agreement, the tenant shall pay as rent
23 the fair rental value for the use and occupancy of the dwelling
24 unit.

25 (3) Rent shall be payable without demand or notice at the
26 time and place agreed upon by the parties. Unless otherwise
27 agreed, rent is payable at the dwelling unit and periodic rent is
28 payable at the beginning of any term of one month or less and

1 otherwise in equal monthly installments at the beginning of each
2 month. Unless otherwise agreed, rent shall be uniformly
3 apportionable from day to day.

4 (4) Unless the rental agreement fixes a definite term,
5 the tenancy shall be week to week in case of a roomer who pays
6 weekly rent, and in all other cases month to month.

7 Sec. 11. Section 76-1415, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 76-1415. (1) No rental agreement may provide that the
10 tenant:

11 (a) Agrees to waive or to forego rights or remedies under
12 ~~sections 25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential
13 Landlord and Tenant Act;

14 (b) Authorizes any person to confess judgment on a claim
15 arising out of the rental agreement;

16 (c) Agrees to pay the landlord's or tenant's attorney's
17 fees; or

18 (d) Agrees to the exculpation or limitation of any
19 liability of the landlord arising due to active and actionable
20 negligence of the landlord or to indemnify the landlord for that
21 liability arising due to active and actionable negligence or the
22 costs connected therewith.

23 (2) A provision prohibited by subsection (1) of this
24 section included in a rental agreement is unenforceable. If a
25 landlord deliberately uses a rental agreement containing provisions
26 known by him or her to be prohibited, the tenant may recover actual
27 damages sustained by him or her and reasonable attorney's fees.

28 Sec. 12. Section 76-1416, Revised Statutes Supplement,

1 2000, is amended to read:

2 76-1416. (1) A landlord may not demand or receive
3 security, however denominated, in an amount or value in excess of
4 one month's periodic rent, except that a pet deposit not in excess
5 of one-fourth of one month's periodic rent may be demanded or
6 received when appropriate, but this subsection shall not be
7 applicable to housing agencies organized or existing under the
8 Nebraska Housing Agency Act.

9 (2) Upon termination of the tenancy, property or money
10 held by the landlord as prepaid rent and security may be applied to
11 the payment of rent and the amount of damages which the landlord
12 has suffered by reason of the tenant's noncompliance with the
13 rental agreement or section 76-1421. The balance, if any, and a
14 written itemization shall be delivered or mailed to the tenant
15 within fourteen days after demand and designation of the location
16 where payment may be made or mailed.

17 (3) If the landlord fails to comply with subsection (2)
18 of this section, the tenant may recover the property and money due
19 him or her and reasonable attorney's fees.

20 (4) This section does not preclude the landlord or tenant
21 from recovering other damages to which he or she may be entitled
22 under the Uniform Residential Landlord and Tenant Act. ~~and section~~
23 ~~25-21,219.~~

24 (5) The holder of the landlord's interest in the premises
25 at the time of the termination of the tenancy is bound by this
26 section.

27 Sec. 13. Section 76-1417, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 76-1417. (1) The landlord or any person authorized to
2 enter into a rental agreement on his or her behalf shall disclose
3 to the tenant in writing at or before the commencement of the
4 tenancy the name and address of:

5 (a) The person authorized to manage the premises; and

6 (b) An owner of the premises or a person authorized to
7 act for and on behalf of the owner for the purpose of service of
8 process and for the purpose of receiving and receipting for notices
9 and demands.

10 (2) The information required to be furnished by this
11 section shall be kept current and this section extends to and is
12 enforceable against any successor landlord, owner, or manager.

13 (3) A person who fails to comply with subsection (1) of
14 this section becomes an agent of each person who is a landlord for
15 the purpose of:

16 (a) Service of process and receiving and receipting for
17 notices and demands; and

18 (b) Performing the obligations of the landlord under
19 ~~sections 25-21, 219 and 76-1401 to 76-1449~~ the Uniform Residential
20 Landlord and Tenant Act and under the rental agreement and
21 expending or making available for the purpose all rent collected
22 from the premises.

23 Sec. 14. Section 76-1419, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 76-1419. (1) The landlord shall:

26 (a) Substantially comply, after written or actual notice,
27 with the requirements of the applicable minimum housing codes
28 materially affecting health and safety;

1 (b) Make all repairs and do whatever is necessary, after
2 written or actual notice, to put and keep the premises in a fit and
3 habitable condition;

4 (c) Keep all common areas of the premises in a clean and
5 safe condition;

6 (d) Maintain in good and safe working order and condition
7 all electrical, plumbing, sanitary, heating, ventilating, air
8 conditioning, and other facilities and appliances, including
9 elevators, supplied or required to be supplied by him or her;

10 (e) Provide and maintain appropriate receptacles and
11 conveniences for the removal of ashes, garbage, rubbish, and other
12 waste incidental to the occupancy of the dwelling unit and arrange
13 for their removal from the appropriate receptacle; and

14 (f) Supply running water and reasonable amounts of hot
15 water at all times and reasonable heat except where the building
16 that includes the dwelling unit is not required by law to be
17 equipped for that purpose, or the dwelling unit is so constructed
18 that heat or hot water is generated by an installation within the
19 exclusive control of the tenant and supplied by a direct public
20 utility connection.

21 If there exists a minimum housing code applicable to the
22 premises, the landlord's maximum duty under this section shall be
23 determined by subdivision (1)(a) of this section. The obligations
24 imposed by this section are not intended to change existing tort
25 law in the state.

26 (2) The landlord and tenant of a single-family residence
27 may agree that the tenant perform the landlord's duties specified
28 in subdivisions ~~(e) and (f) of subsection (1)~~ (1)(e) and (1)(f) of

1 this section and also specified repairs, maintenance tasks,
2 alterations, and remodeling, but only if the transaction is in
3 writing, for good consideration, entered into in good faith and not
4 for the purpose of evading the obligations of the landlord.

5 (3) The landlord and tenant of a dwelling unit other than
6 a single-family residence may agree that the tenant is to perform
7 specified repairs, maintenance tasks, alterations, or remodeling
8 only if:

9 (a) The agreement of the parties is entered into in good
10 faith and not for the purpose of evading the obligations of the
11 landlord and is set forth in a separate writing signed by the
12 parties and supported by adequate consideration; and

13 (b) The agreement does not diminish or affect the
14 obligation of the landlord to other tenants in the premises.

15 (4) Notwithstanding any provision of ~~sections 25-21,219~~
16 ~~and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant
17 Act, a landlord may employ a tenant to perform the obligations of
18 the landlord.

19 Sec. 15. Section 76-1420, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 76-1420. (1) Unless otherwise agreed, a landlord, who
22 conveys premises that include a dwelling unit subject to a rental
23 agreement in a good faith sale to a bona fide purchaser, is
24 relieved of liability under the rental agreement and ~~sections~~
25 ~~25-21,219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord
26 and Tenant Act as to events occurring subsequent to written notice
27 to the tenant of the conveyance, but ~~he~~ the landlord remains liable
28 to the tenant for any property and money to which the tenant is

1 entitled under section 76-1416, except that assignment of any
2 security deposits or prepaid rents to a bona fide purchaser with
3 written notice to the tenant shall serve to relieve the conveying
4 landlord of any further liability under section 76-1416.

5 (2) Unless otherwise agreed, a manager of premises that
6 include a dwelling unit is relieved of liability under the rental
7 agreement and ~~sections 25-21,219 and 76-1401 to 76-1449~~ the Uniform
8 Residential Landlord and Tenant Act as to events occurring after
9 written notice to the tenant of the termination of his or her
10 management.

11 Sec. 16. Section 76-1425, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 76-1425. (1) Except as provided in ~~sections 25-21,219~~
14 ~~and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant
15 Act, if there is a material noncompliance by the landlord with the
16 rental agreement or a noncompliance with section 76-1419 materially
17 affecting health and safety, the tenant may deliver a written
18 notice to the landlord specifying the acts and omissions
19 constituting the breach and that the rental agreement will
20 terminate upon a date not less than thirty days after receipt of
21 the notice if the breach is not remedied in fourteen days, and the
22 rental agreement shall terminate as provided in the notice subject
23 to the following. If the breach is remediable by repairs or the
24 payment of damages or otherwise and the landlord adequately
25 remedies the breach prior to the date specified in the notice, the
26 rental agreement will not terminate. If substantially the same act
27 or omission which constituted a prior noncompliance of which notice
28 was given recurs within six months, the tenant may terminate the

1 rental agreement upon at least fourteen days' written notice
2 specifying the breach and the date of termination of the rental
3 agreement. The tenant may not terminate for a condition caused by
4 the deliberate or negligent act or omission of the tenant, a member
5 of his or her family, or other person on the premises with his or
6 her consent.

7 (2) Except as provided in ~~sections 25-21,219 and 76-1401~~
8 ~~to 76-1449~~ the Uniform Residential Landlord and Tenant Act, the
9 tenant may recover damages and obtain injunctive relief for any
10 noncompliance by the landlord with the rental agreement or section
11 76-1419. If the landlord's noncompliance is willful the tenant may
12 recover reasonable attorney's fees. If the landlord's
13 noncompliance is caused by conditions or circumstances beyond his
14 or her control, the tenant may not recover consequential damages,
15 but retains remedies provided in section 76-1427.

16 (3) The remedy provided in subsection (2) of this section
17 is in addition to any right of the tenant arising under subsection
18 (1) of ~~section 76-1425~~ this section.

19 (4) If the rental agreement is terminated, the landlord
20 shall return all prepaid rent and security recoverable by the
21 tenant under section 76-1416.

22 Sec. 17. Section 76-1428, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 76-1428. (1) In an action for possession based upon
25 nonpayment of the rent or in an action for rent where the tenant is
26 in possession, the tenant may counterclaim for any amount which he
27 or she may recover under the rental agreement or ~~sections 25-21,219~~
28 ~~and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant

1 Act. In that event, the court from time to time may order the
2 tenant to pay into court all or part of the rent accrued and
3 thereafter accruing, and shall determine the amount due to each
4 party. The party to whom a net amount is owed shall be paid first
5 from the money paid into court, and the balance by the other party.
6 If no rent remains due after application of this section, judgment
7 shall be entered for the tenant in the action for possession. If
8 the defense or counterclaim by the tenant is without merit and is
9 not raised in good faith, the landlord may recover reasonable
10 attorney's fees.

11 (2) In an action for rent where the tenant is not in
12 possession, the tenant may counterclaim as provided in subsection
13 (1) of this section but the tenant is not required to pay any rent
14 into court.

15 Sec. 18. Section 76-1431, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 76-1431. (1) Except as provided in ~~sections 25-21, 219~~
18 ~~and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant
19 Act, if there is a noncompliance with section 76-1421 materially
20 affecting health and safety or a material noncompliance by the
21 tenant with the rental agreement or any separate agreement, the
22 landlord may deliver a written notice to the tenant specifying the
23 acts and omissions constituting the breach and that the rental
24 agreement will terminate upon a date not less than thirty days
25 after receipt of the notice if the breach is not remedied in
26 fourteen days, and the rental agreement shall terminate as provided
27 in the notice subject to the following. If the breach is
28 remediable by repairs or the payment of damages or otherwise and

1 the tenant adequately remedies the breach prior to the date
2 specified in the notice, the rental agreement will not terminate.
3 If substantially the same act or omission which constituted a prior
4 noncompliance of which notice was given recurs within six months,
5 the landlord may terminate the rental agreement upon at least
6 fourteen days' written notice specifying the breach and the date of
7 termination of the rental agreement.

8 (2) If rent is unpaid when due and the tenant fails to
9 pay rent within three days after written notice by the landlord of
10 nonpayment and his or her intention to terminate the rental
11 agreement if the rent is not paid within that period of time, the
12 landlord may terminate the rental agreement.

13 (3) Except as provided in ~~sections 25-21,219 and 76-1401~~
14 ~~to 76-1449~~ the Uniform Residential Landlord and Tenant Act, the
15 landlord may recover damages and obtain injunctive relief for any
16 noncompliance by the tenant with the rental agreement or section
17 76-1421. If the tenant's noncompliance is willful, the landlord
18 may recover reasonable attorney's fees.

19 Sec. 19. Section 76-1436, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 76-1436. A landlord may not recover or take possession
22 of the dwelling unit by action or otherwise, including willful
23 diminution of services to the tenant by interrupting or causing the
24 interruption of electric, gas, water, or other essential service to
25 the tenant, except in case of abandonment, surrender, or as
26 permitted in ~~sections 25-21,219 and 76-1401 to 76-1449~~ the Uniform
27 Residential Landlord and Tenant Act.

28 Sec. 20. Section 76-1448, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 76-1448. ~~Sections 25-21,219 and 76-1401 to 76-1449 shall~~
3 ~~become operative on July 1, 1975. They apply~~ The Uniform
4 Residential Landlord and Tenant Act applies to rental agreements
5 entered into or extended or renewed after ~~that date~~ July 1, 1975.

6 Sec. 21. Original sections 76-1402 to 76-1409, 76-1411,
7 76-1414, 76-1415, 76-1417, 76-1419, 76-1420, 76-1425, 76-1428,
8 76-1431, 76-1436, and 76-1448, Reissue Revised Statutes of
9 Nebraska, and section 76-1416, Revised Statutes Supplement, 2000,
10 are repealed.